IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

SUPPLEMENTAL APPEAL BRIEF – 37 C.F.R § 1.192

U.S. Patent Application 09/928,347 entitled,

"Collaborative Content Programming"

REAL PARTY IN INTEREST: International Business Machines Corporation

RELATED APPEALS AND INTERFERENCES:

None

STATUS OF CLAIMS:

Claims 1-23 are pending.

Claims 9 and 22 stand rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and claim the subject matter which is the invention.

Claims 1-23 stand rejected under 35 USC § 103(a) as being unpatentable over Noll et al. (USPA 2002/0054087) in view of Hosken (USP 6438579).

Claims 1-23 are on appeal.

STATUS OF AMENDMENTS:

An amendment after the final rejection was filed on August 9, 2005. The Examiner's Advisory Action dated August 29, 2005 indicated that the amendment filed after the final rejection will not be entered because it was not in compliance with 37 CFR 1.121, further stating "All claims being amended must be presented with markings to indicate the changes that have been made relative to the immediate prior version. The changes in any amended claim must be shown by strikethrough (for deleted matter) or underlining (for added matter)." In response, the Applicant has submitted to the Examiner an amended version of the claims including markings indicating the made changes. On November 9, 2005 Applicant spoke with the Examiner via telephone requesting the Examiner to submit an Examiner's Amendment for the amendments sent on November 9, 2005. The Examiner agreed to enter the proposed amended changes for the purposes of appeal.

SUMMARY OF CLAIMED SUBJECT MATTER:

The present invention discloses, as per claim 1, a method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content *(page 5, lines 9-13)*, with one or more steps of said method performed over a

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network. The method comprises: dynamically allocating bandwidth to a plurality of communication channels, each of the channels retaining one or more instances of content *(elements 502, 510, and 514, figure 2; page 5, lines 9-10)*; recursively receiving user preferences of content information from multiple users, such that the preferences comprise one or more of: selection requests for specific content, evaluations of existing content, and evaluations of potential content *(element 302, figure 3; page 5, lines 10-11; page 9, lines 12-15; page 15, lines 12-14)*; dynamically retaining within a selected channel a collection of specific instances of content based on a collation of the preferences, wherein the collection is placed on an allocated communication channel over a period of time *(element 512, figure 5; page 5, lines 11-15; page 9, lines 8-13; page 15, lines 20-22)*; and dynamically allocating user access to the channels based on a best match with the preferences *(channel elements 1-n, figure 5; page 15, lines 9-11; page 6, lines 20-21; page 8, lines 16-17; page 10, lines 5-14)*.

In one embodiment, as per claim 2, evaluations of existing and potential content represent user preferences are based on voting for or against the content *(page 8, lines 14-15; page 11, lines 16-18; page 15, lines 15-19)*.

In an additional embodiment, as per claim 3, evaluations of potential content comprises introduction of new content which, based upon a comparison with said collected content, appears to be a high probability match and said evaluations are used to validate or invalidate the match *(figures 1 and 5; page 9, lines 14-17)*.

In another embodiment, as per claim 4, the content comprises selected songs *(element 304; figures 1 and 3)*.

In a further embodiment, as per claim 5, the distribution of the content comprises distributing selected songs across the Internet to a user *(element 308; figures 1 and 3; page 5, lines 17-19; page 12, line 17)*.

In another embodiment, as per claim 6, selected songs are distributed across the Internet and communication channels comprising streaming audio channels *(page 5, lines 17-19; page 11, line 19-page 12, line 2; page 12, lines 17-21)*.

In one embodiment, as per claim 7, distributing selected electronic content may be from web distribution centers, cable television systems, and satellite systems *(page 16, lines 1-4)*.

In another embodiment, as per claim 8, the distributed selected electronic content may comprise video, software, personal ads, news stories, restaurant ratings, evaluating advertisements, and political propositions including matching candidates and issues *(page 16, lines 4-6)*.

In yet another embodiment, as per claim 9, allocating user access to one or more dynamically allocated communication channels comprises dynamically providing access based on a match of a specific user's collaborative preferences with that of the collaborative preferences of said one or more dynamically allocated communication channels *(page 8, lines 18-20; page 9, lines 8-12)*.

In a further embodiment, as per claim 10, a new user is mapped to an initial content channel by building a new user profile comprising the steps of presenting a plurality of content selections to the user and registering positive and negative votes of said content selections *(page 8, lines 5-15; page 9, lines 20-22; figure 2; page 13, lines 7-19)*.

The present invention also discloses, as per claim 11, a collaborative content programming system *(element 500; figure 5)* with one or more elements of the system located across networks. The system comprises: a content database retained within one or more storage locations across said network *(element 502, figure 5; page 15, lines 4-7)*; a content engine collecting specific instances of content retained in the content database into channels *(element 504, figure 5; page 15, lines 7-10)*; and an available channel selector providing access to the channels to content requestors *(element 510, figure 5; page 15, lines 10-1)*. The content engine determines a best match to connect each of the content requestors to one or more of the available channels based on specific content requests *(page 8, lines 15-17)*. The content engine also aggregates specific content requests and requestor evaluations of specific content *(page 8, lines 1-3; page 15, lines 14-22; figure 5)*, and dynamically modifies the collected specific instances of

content retained in the content database into channels based on said aggregating *(page 15, lines 16-18)*.

In one embodiment, as per claim 12, evaluations of existing and potential content represent user preferences are based on voting for or against the content *(page 8, lines 14-15; page 11, lines 16-18; page 15, lines 15-19)*.

In an embodiment, as per claim 13, evaluations of potential content comprises introduction of new content which, based upon a comparison with said collected content, appears to be a high probability match and said evaluations are used to validate or invalidate said match *(figures 1 and 5; page 9, lines 14-17)*.

In another embodiment, as per claim 14, the content comprises selected songs *(element 304; figures 1 and 3)*.

In a further embodiment, as per claim 15, the distribution of the content comprises being broadcast across the Internet *(element 308; figures 1 and 3; page 5, lines 17-19; page 12, line 17)*.

In one embodiment, as per claim 16, content is broadcast across the Internet and said channels comprise streaming audio channels *(page 5, lines 17-19; page 11, line 19-page 12, line 2; page 12, lines 17-21)*.

In another embodiment, as per claim 17, content is broadcast to a requestor from web distribution centers *(page 16, lines 1-4)*.

In another embodiment, as per claim 18, broadcasting content across channels may be from web distribution centers, cable television systems, and satellite systems *(page 16, lines 1-4)*.

In an additional embodiment, as per claim 19, content may comprise video, software, personal ads, news stories, restaurant ratings, evaluating advertisements, and political propositions including matching candidates and issues *(page 16, lines 4-6)*.

In a further embodiment, as per claim 20, said evaluations additionally include requests for omission of specific content *(page 9, lines 1-3; page 12, lines 3-4)*.

In yet another embodiment, as per claim 21, said content engine comprises at least data mining algorithms *(page 10, lines 15-17; page 15, lines 7-9)*.

The present invention also discloses, as per claim 22, an e-commerce system for collaborative content programming with electronic access to user modified channels of content, wherein the system comprises: a collection of individual content selections retained within computer storage and accessible across computer networks *(element 504, figure 5; page 15, lines 9-10)*; computer software for tracking and aggregating both individual user's requests based on specific content selections and evaluations of specific selections from the collection. The aggregated requests and evaluations are retained locally or remotely in associated computer storage *(page 8, lines 1-3; page 15, lines 14-22; figure 5)*. The system also comprises: one or more channels dynamically collecting specific content based on said aggregated requests and evaluations, where the computer software assigns users to a best matching channel, and the channels are accessible remotely by users across networks *(channel elements 1-n, figure 5; page 15, lines 9-11; page 6, lines 20-21; page 8, lines 16-17; page 10, lines 5-14)*. The revenue collection is based on any of: subscription fees, per content fee, advertising, and content purchase options *(page 11, lines 13-16 and page 11, line 19-page 12, line 7)*.

The present invention discloses, as per claim 23, an article of manufacture comprising computer readable program code embodied therein which selective filters and distributes content based on combined user specific and collaborative inputs *(page 8, lines 1-3; page 9, lines 8-12)*, the computer readable program code comprising: computer readable program code for allocating a communication channel for one or more instances of content *(figure 5; page 5, lines 9-10)*; and computer readable program code for recursively receiving content information from multiple users, wherein the content information comprising one or more of: selection requests for specific content, evaluations of existing content, and evaluations of potential content *(page 5, lines 10-11; page 9, lines 12-15; page 15, lines 12-14)*. In addition, the code comprises: computer readable program code for collecting specific instances of content based on the content

information, wherein the collected content is placed on the allocated communication channel over a period of time *(element 512, figure 5; page 5, lines 11-15; page 9, lines 8-13; page 15, lines 20-22)*, and computer readable program code for allocating user access to one or more allocated communication channels based on the content information *(channel elements 1-n, figure 5; page 15, lines 9-11; page 6, lines 20-21; page 8, lines 16-17; page 10, lines 5-14)*.

GROUNDS OF REJECTIONS TO BE REVIEWED ON APPEAL: 1. Claims 1-23 stand rejected under 35 USC § 103(a) as being unpatentable over Noll et al. (USPA 2002/0054087) in view of Hosken (USP 6438579). Was a proper rejection made under 35 U.S.C. § 103(a) using existing USPTO guidelines?

ARGUMENT:

REJECTIONS UNDER 35 U.S.C. § 103(a)

Claims 1-23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Noll et al. (USPA 2002/0054087) in view of Hosken (USP 6438579).

To establish a prima facie case of obviousness under U.S.C. § 103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Additionally, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure (In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)). Applicant contends, as will be seen from the arguments below, that the Examiner, based on the office actions of 12/8/2004 and 5/9/2005 and the Advisory Action of 8/29/2005, has failed to establish a prima facie case of obviousness under 35 U.S.C. § 103 (a).

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In the Advisory Action dated 8/29/2005 the Examiner has repeatedly referred to the "remarks dated 8/15/05." Applicants have based the following on the assumption that the Examiner has erroneously noted the date of the Amendment After Final dated 8/9/2005. However, should this be incorrect, Applicant hereby requests further clarification as to the noted remarks by the Examiner.

The examiner contends that it would have been obvious to one of ordinary skill in the art to combine the customized channel dancer of Noll with the content recommendation system of Hosken in order to obtain the optimization of bandwidth and collaborative content programming goal of the present invention. The present invention is concerned with the optimization of bandwidth and dynamic allocation of bandwidth, content, and users to select channels. The use of channels is known. Delivering content to users is known. However, a method and system of <u>dynamically allocating bandwidth into channels</u> is not known. Recursively receiving user preferences from multiple users to optimize bandwidth is also not shown in the prior art. In addition, dynamically retaining content within a channel <u>based on a collation of preferences</u> is not provided. As will be described in detail, neither Noll nor Hosken provide the basic elements required by the claims of the present invention, nor do they provide the motivation for such, nor do their combination provide a collaborative content programming system and method as provided by the present invention.

With regard to the Examiner's Response in the Office Action dated 5/9/2005, the Examiner has failed to particularly point out the issues addressed in the Applicant's argument dated 3/8/2005. Although the Examiner recognizes that obviousness can only be established by combining or modifying teachings of the art, the Examiner has not provided evidence for such a suggestion or motivation for the combination of the Noll and Hosken references. The Applicant respectfully requested on page 12 in the Amendment After Final dated 8/9/2005 that the Examiner <u>particularly point out</u> the presently claimed limitation of "dynamically allocating bandwidth to a plurality of communication channels" within the Noll reference. However, the

Examiner has failed to do so. In the Advisory Action of 8/29/2005, the Examiner states on page 2 that the "motivation and suggestion have been provide in office action dated 5/9/2005 on page 2 section 1." However, when viewing page 2, section 1 of the Final office action of 5/9/2005, it simply states "...Noll and Hosken, are considered analogous art since both provide a solution to the similar problem solving area of delivering content..." The Examiner has failed to particularly point out in Noll or Hosken any figures, elements, or line numbers that particularly describe dynamically allocating bandwidth, as requested. Furthermore, the Examiner has not pointed out in Noll or Hosken particular description of the collation of user preferences from multiple users.

Hence, due to the reasons above and further provided below, Applicant believes the Examiner has failed to establish obviousness a required under U.S.C. § 103 (a).

Claim 1

Both Noll and Hosken are missing the required dynamic allocation and collation elements as described and claimed in the present invention. Additionally, each reference provides different methods for content delivery. Noll provides channels for delivering content information. Hosken, on the other hand, provides a static list or table of content information. Therefore, it would not have been obvious, nor is there motivation, to combine Noll and Hosken. The teaching to modify the references must come from the references themselves, and neither Noll or Hosken provides such. Even if the combination was deemed proper, the combination of Noll and Hosken would not produce the claimed invention. The combination of Noll and Hosken would, at most, serve as a system to deliver multimedia content to a user, wherein the system compares one user's profile against other users—which is not the same as a collation of preferences. By definition, as per the Merriam-Webster Online Dictionary, collation is: "2: the act, process, or result of collating," wherein collating is defined as: "1b : to collect , compare carefully in order to verify, and often to integrate or arrange in order." Thus, since both Noll and Hosken fail to provide an integration or collation of preferences of multiple users, they can not be combined to provide the requirements of the claims in the present invention. Furthermore, the

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process of dynamic allocation as provided by the present invention is not provided in either reference.

Noll provides a method for customizing an interface based on a user's individual profile. Figure 6 of Noll illustrates a content and advertising classification. In the method (element 1370), the nature of the content is classified and filtered before being provided to the user. This teaches away from a goal of the present invention. In the present invention, channels are dynamic. The bandwidth of the channels may be allocated as well as the content in the channels. The content in Noll is not dynamically allocated or retained. In the Advisory Action dated 8/29/2005, the Examiner states on page 2 that "Examiner respectively disagrees" with the statement by the Applicant that "Noll does not teach dynamically allocating bandwidth" and directs the Applicant to "page 3 see 3a" of the Final office action dated 5/9/2005. The Examiner continues with "Noll clearly describes dynamic allocation of bandwidth to a plurality of channels in an embodiment which comprises a NOC-12 allocating low and high bandwidth to virtual channels depending on the size of the content." With regard to page 3, section 3a of the Response Applicant has previously noted on page 12 of the Amendment After Final dated 8/9/2005 that the "Examiner appears to have incorrectly equated the generation of updates and virtual channels" to the dynamic allocation of bandwidth to ..channels" as provided in the present invention. Noll does not dynamically allocate bandwidth to a plurality of channels as provided in the present invention.

In Noll, the user receives messages, advertisements, etc. based on individual preferences through virtual channels. The present invention also claims "receiving user preferences of content information *from multiple users*" and "dynamically retaining within a selected channel a collection of specific instances of content based on *a collation of said preferences*." It appears that the Examiner has failed to point out the requirement of "multiple users" and the "collation of said preferences" of the users. As noted by the examiner on page 5 in the office action dated 12/8/2004, "Noll is silent" on the **collation** of preferences from multiple users. The "collation" and "allocation" are essential elements to the claims of the present invention. The examiner points to paragraph 66, lines 8-13 and paragraph 63, lines 1-6. These lines discuss the collection

of content based on the preferences of one user—there is no teaching in Noll that would suggest the collation of preferences of multiple users. The Examiner goes on to contest the prior "silent" statement in the Response dated 5/9/2005 on page 5 by saying "Noll et al. is collating preferences of a user." However, Noll does not provide collation of preferences. Additionally, in the present invention the "user preferences of content information are from multiple users." The paragraphs (58, 63, 68, 80-82) provided by the Examiner describe content based on an individual user's feedback, not the collation preferences of multiple users as in the present invention. The Examiner reinforces Applicant's argument that "multiple users are not provided in Noll" on page 3 of the Rejection saying that "Noll does not explicitly state receiving user content preferences from 'multiple users.'" Furthermore, on page 3 in the Advisory Action of 8/29/2005, the Examiner *again* contradicts the above statement (i.e., "Noll is silent"). The Examiner states, "Noll describes collation of preferences as is shown by Examiners response on page 4 see col. of Office action dated 5/9/2005." (Applicants assumed that the Examiner referred to both sections b and c on page 4 of the Response. However, if this is incorrect Applicant requests clarification of the Examiner's statement.) In section 3c on page 4 the Examiner clearly states, "Noll does not provide for dynamically retention of content based on a collation of preferences." The Examiner has failed to address elements as provided by the present invention and has not shown elements in Noll or Hosken describing a collation of preferences.

The examiner states in the office action of 12/8/2004 on page 5 that Hosken teaches "a collaborative filtering system for *recommending content to a user based on comparison between the user and other user preferences* of content." However, as noted in the Amendments of 3/8/2005 and 8/9/2005, Hosken does not describe or suggest a method of optimizing bandwidth through dynamic allocation to a plurality of channels. The Examiner addresses this again on page 3 of the Advisory Action dated 8/29/2005. Even if using the interpretation as provided by the Examiner on page 3, "a channel as a path along which a communication signal is transmitted," Hosken does not allocate content **and** users to a channel. Hosken fails to provide the required elements of dynamically allocating bandwidth in a plurality of communication

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channels to which users are allocated access. Hosken provides a content item referral system that provides a set of recommended items particularly tailored to the personalized interests of a single user. The examiner has pointed to column 2, lines 36-50 in the office action dated 12/8/2004 to provide for the elements in claim 1. This column, however, only provides for a method of filtering according to an individual user's preferences. The present invention uses a collation of both individual and group preferences in a channel. In Hosken a user's profile is compared to another user's profile such that suggestions may be made and presented to that individual user (see note above with regard to page 5). There is no collation of preferences by multiple users. As noted in the Amendment dated 3/8/2005, one of the goals of the present invention is to allow users with similar preferences to "jointly decide" what content is included in the channel which they are a part of. In Hosken, there is no group or joint decision making as to the content that is provided. As shown above, Applicant notes that the Examiner himself has stated on page 5 of the office action dated 12/8/2004 that "Hosken teaches...recommending content to a user based on a **comparison** between the user and other user preferences." Only the profiles of users are individually compared in order to provide recommendations. Multiple users are not provided access to a channel. Hosken does not provide a "collation of preferences," nor does it provide "dynamically allocating" content with a channel as required by the present invention.

In the Advisory Action of 8/29/2005, the Examiner notes on pages 3-4 that the "features upon which the applicant relies are not recited in the rejected claims." Specifically, the Examiner notes, "remarks on pages 13-14 dated 8/15/2005" and, i.e., "allowing for a collection of content in a channel based on...multiple users' preferences." Referring to the Amendment After Final dated 8/9/2005, the above-noted phrase, and other remarks, have been provided to further clarify the requirements of the claim. For example, the description of "allowing for a collection of content in a channel based on...multiple users' preferences" et al. have been provided to further emphasize the collation limitation as provided in the present claims. Applicant feels that the elements in the claims of the present invention have been clearly noted, and that the Applicant has clearly stated how both Noll and Hosken have failed to disclose or

describe these elements singly or in combination.

With regard to the notation by the Examiner on page 4 of the Advisory Action that the "Applicant has mistakenly taken an argument…as that of the Examiner," Applicant disagrees. Applicants believe the Examiner has mistakenly addressed the original argument as provided in the Amendment dated 3/8/2005. On page 6 of the Response dated 5/9/2005, section 5, the Examiner states "In response to applicants argument that, *Hosken* does not describe dynamically allocating a user access based on user's preferences," *Noll* teaches preferences." The Examiner continues by addressing how Noll teaches preferences. The Examiner has failed to show how Hosken describes dynamically allocating a user access based on user's preferences. Furthermore, the Examiner has failed to show how Hosken allocates user access based on **users'** preferences. That is, Applicant was noting that the missing elements in Hosken were not addressed and noting the difference of possession between "user's" and "users'", as provided by the Applicant's statement immediately following: "Please note that in the presently claimed invention, user access is based on users' preferences (i.e., multiple users), not an individual user's."

Claims 2-8 and 10 are dependent on claim 1. Because Noll and Hosken fail to provide for each and every claim element in claim 1, all arguments provided above for claim 1 should be noted and applied to dependent claims 2-8 and 10.

Claim 9

Claim 9 is also dependent on claim 1. All arguments provided above for claim 1 should be noted and applied to claim 9.

As stated by the examiner on pages 11-12 of his rejection of 12/8/2004, Noll fails to teach "dynamically providing access" to a channel "based on a match of a specific user's collaborative preferences with that of the preferences of the allocated channel." The examiner then states that Hosken "teaches a user may rate a piece of content" and ratings are stored for general use. The examiner points to column 6, lines 10-17, 31-33, and 33-43. Here Hosken

mentions user and group profiles having information that expresses an interest level in different types of media. "Work tables" are prepared as recommended sets by comparing individual profiles. The examiner also notes that the "collaborative cluster tables" taught by Hosken are provided as associated preferences for the grouping of content. The examiner specifically states on page 12 that the "grouping of content" is "based on group collaborative data." However, a closer reading of column 15, lines 17-66 and column 16-20 states that, upon finding a match between users, the two user profiles are **compared** to identify items of one profile not present in the other. The "collaborative recommendations" are made by individually comparing a user with an additional user until there are no remaining related profiles. The present invention utilizes a "**collation** of preferences" from multiple users to allocate the content in a channel, and then allocate a user to a particular channel that meets their individual preferences. Hosken does not describe dynamically allocating a user access based on a user's preferences with that of the collaborative preferences of said one or more dynamically allocated communication channels.

Claim 11

As claim 11 describes a system that is designed to utilize the method and elements as described in claim 1, the above arguments provided for claim 1 should also be noted for claim 11.

Claim 11 describes a system of the present invention that may be dynamically modified based on aggregated content requests. Noll does not provide a content engine that **aggregates** specific content requests. Rather, Noll provides content to a single user based on their **individual** preferences (see Noll, paragraph 49). As previously noted, on pages 14-15 of the office action dated 12/8/2004, the examiner states that "Noll is silent on" the required claim element "said content engine dynamically modifying said collected specific instances of content retained in said content database" into channels based on said aggregating. The examiner suggests that Hosken teaches "a system providing a content filter for identifying and providing information for content items." Also stated by the examiner is that Hosken provides "content recommendations are tailored to a user." However, Hosken does not provide the claim element of "aggregating

said specific content request and requestor evaluations of specific content." Rather, Hosken compares one user's profile to another user's profile such that suggestions may be made and presented to one individual user.

In addition, the claim requires that the content engine aggregate "said specific content requests **and** requestor evaluations of specific content." The present invention requires that both the content request and requestor evaluations of content be utilized to determine a best match. In the present invention, the combination of the requestor evaluations (e.g., users) and content request help determine the connection of each of the content requestors to one or more channels. However, neither Noll or Hosken show or suggest "aggregating specific content requests and requestor evaluations" or "determining a best match to connect each of said content requestors to available channels base on specific content request" as provided in the present invention.

As noted by the examiner, figure 2 shows the content engine of Hosken recommending a set (element 72). Channels are not shown or suggested in Hosken. Since the claims of the present invention require that the content engine connects requestors to available channels, Hosken does not provide the required elements.

Furthermore, it would not have been obvious to one of ordinary skill to modify the content of either Noll or Hosken to retain information of the user profiles, as each utilize two different methods of content delivery—Noll uses channels and Hosken has tables. Neither Noll nor Hosken provide or suggest the teaching to modify the references to include the required elements of the present invention.

Claims 12-21 are dependent on claim 11. Because Noll and Hosken fail to provide for each and every claim element in claim 11, all arguments provided for claim 11, as well as claim 1, should be noted and applied to dependent claims 12-21.

Claims 22 and 23
As noted by the examiner on pages 20 and 21, "Noll fails to teach evaluation aggregation of the request from multiple users to come up with content collection." The examiner states that

Hosken teaches evaluation aggregation as described under the rejection of claim 1. However, as shown in the argument above, Hosken does not describe the use of channels, there is no group or joint decision making as to the content that is provided, and a "collation of preferences" is not provided. Therefore it would not have been obvious, as suggested by the examiner, to combine Noll and Hosken. Noll and Hosken fail to provide the elements of claims 22 and 23 for the same reasons provided above with respect to claim 1.

Therefore, the Applicant contends that the Noll and Hosken references do not suggest or motivate the combination to achieve the limitations as provided in the present invention. The teaching to modify the references must come from the references themselves, and neither Noll or Hosken provides such. Thus, the Applicant feels the 103 (a) rejection is improper and without merit.

CLAIMS APPENDIX:

1.   (Previously Presented) A method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, one or more steps of said method performed over a network, said method comprising:

dynamically allocating said bandwidth to a plurality of communication channels, each of said channels retaining one or more instances of content;

recursively receiving user preferences of content information from multiple users, said preferences comprising one or more of: selection requests for specific content, evaluations of existing content, and evaluations of potential content;

dynamically retaining within a selected channel a collection of specific instances of content based on a collation of said preferences, said collection placed on an allocated communication channel over a period of time; and

dynamically allocating user access to said channels based on a best match with said preferences.

2.   (Original) A method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1, wherein said evaluations of existing and potential content represent user preferences based on voting for or against the content.

3.   (Previously Presented) A method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1, wherein said evaluations of potential content comprises introduction of new content which, based upon a comparison with said collection, appears to be a high probability match and said evaluations are used to validate or invalidate said match.

4.   (Original) A method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1, wherein said instances of content comprise selected songs.

5. (Original) A method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1, wherein said distribution of content comprises distributing selected songs across the Internet to a user.

6. (Original) A method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1, wherein said distribution of content comprises distributing selected songs across the Internet and said communication channels comprise streaming audio channels.

7. (Original) A method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1, wherein said distribution of content comprises distributing selected electronic content to a user from any of: web distribution centers, cable television systems, and satellite systems.

8. (Original) A method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1, wherein said distribution of content comprises distributing selected electronic content comprising any of: video, software, personal ads, news stories, restaurant ratings, evaluating advertisements, and political propositions including matching candidates and issues.

9. (Previously Presented) A method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1, wherein said step of allocating user access to one or more dynamically allocated communication channels comprises dynamically providing said access based on a match of a specific user's collaborative preferences with that of the collaborative preferences of said one or more dynamically allocated communication channels.

10. (Original) A method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1, wherein a new user is mapped to an initial content channel by building a new user profile comprising the steps of presenting a plurality of content selections to the user and registering positive and

negative votes of said content selections.

11. (Original) A collaborative content programming system, one or more elements of said system located across networks, said system comprising:

a content database, said content database retained within one or more storage locations across said network;

a content engine, said content engine collecting specific instances of content retained in said content database into channels;

an available channel selector, said selector providing access to said channels to content requestors;

said content engine determining a best match to connect each of said content requestors to one or more of said available channels based on specific content requests;

said content engine aggregating said specific content requests and requestor evaluations of specific content, and

said content engine dynamically modifying said collected specific instances of content retained in said content database into channels based on said aggregating.

12. (Original) A collaborative content programming system, as per claim 11, wherein said evaluations comprise voting on existing and potential content, said voting representing user preferences.

13. (Previously Presented) A collaborative content programming system, as per claim 12, wherein said evaluations of potential content comprises introduction of new content which, based upon a comparison with said content of said content database, appears to be a high probability match and said evaluations are used to validate or invalidate said match.

14. (Original) A collaborative content programming system, as per claim 11, wherein said content comprises selected songs.

15. (Original) A collaborative content programming system, as per claim 11, wherein said content is broadcast across the Internet.

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16. (Original) A collaborative content programming system, as per claim 11, wherein said content is broadcast across the Internet and said channels comprise streaming audio channels.

17. (Original) A collaborative content programming system, as per claim 11, wherein said content is broadcast to a requestor from web distribution centers.

18. (Original) A collaborative content programming system, as per claim 11, wherein said content is broadcast across said channels from any of: web distribution centers, cable television systems, and satellite systems.

19. (Original) A collaborative content programming system, as per claim 11, wherein said content comprises any of: video, software, personal ads, news stories, restaurant ratings, evaluating advertisements, and political propositions including matching candidates and issues.

20. (Original) A collaborative content programming system, as per claim 11, wherein said evaluations additionally include requests for omission of specific content.

21. (Original) A collaborative content programming system, as per claim 11, wherein said content engine comprises at least data mining algorithms.

22. (Previously Presented) An e-commerce system for collaborative content programming with electronic access to user modified channels of content, said system comprising:

a collection of individual content selections, said collection retained within computer storage and accessible across computer networks;

computer software, said software tracking and aggregating both individual user's requests based on specific content selections and evaluations of specific selections from said collection, said aggregated requests and evaluations retained locally or remotely in associated computer storage;

one or more channels, said channels dynamically collecting specific content based

on said aggregated requests and evaluations, said computer software assigning users to a best matching channel, said channels accessible remotely by said users across said networks, and

revenue collection based on any of: subscription fees, per content fee, advertising, and content purchase options.

23. (Previously Presented) An article of manufacture comprising computer readable program code embodied therein which selective filters and distributes content based on combined user specific and collaborative inputs, said computer readable program code comprising:

computer readable program code for allocating a communication channel for one or more instances of content;

computer readable program code for recursively receiving content information from multiple users, said content information comprising one or more of: selection requests for specific content, evaluations of existing content, and evaluations of potential content;

computer readable program code for collecting specific instances of content based on said content information, said collected content placed on said allocated communication channel over a period of time, and
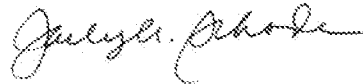
computer readable program code for allocating user access to one or more allocated communication channels based on said content information.

EVIDENCE APPENDIX:

None

As this Supplemental Appeal Brief has been timely filed within the set period of response, no petition for extension of time or associated fee is required. However, the Commissioner is hereby authorized to charge any deficiencies in the fees provided, to include an extension of time, to Deposit Account No. 09-0441.

Respectfully submitted by
Applicant's Representative,

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